

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**  
**Act 451 of 1994**

**324.5409 Application for fund assistance; contents; availability of revenue sources; acceptance of applications by department; liability for incurred costs.**

Sec. 5409. (1) A water supplier whose project plan is approved or under review by the department under section 5407 may apply for assistance from the fund by submitting an application to the department. A complete application shall include all of the following, if applicable, as determined by the department:

(a) If assistance is in the form of a loan, financial documentation that a dedicated source of revenue is established, consistent with obligations of debt instruments existing at the time assistance is requested, and pledged to both of the following purposes:

- (i) The timely repayment of principal and interest.
  - (ii) Adequate revenues to fund the operation and maintenance of the project.
- (b) Evidence of an approved project plan.

(c) A certified resolution from a water supplier that is a municipality, or a letter of appointment from a water supplier that is not a municipality, designating an authorized representative for the project.

(d) A certification by an authorized representative of the water supplier affirming that the supplier has the legal, institutional, technical, financial, and managerial capability to build, operate, and maintain the project.

(e) A letter of credit, insurance, or other credit enhancement to support the credit position of the water supplier, as required by the department.

(f) A set of plans and specifications, developed in accordance with Act 399, which is suitable for bidding.

(g) A certification from an authorized representative of the water supplier that it has, or will have before the start of construction, all applicable state and federal permits required for construction of the project.

(h) A certification from an authorized representative of the water supplier that an undisclosed fact or event, or pending litigation, will not materially or adversely affect the project, the prospects for its completion, or the water supplier's ability to make timely loan repayments, if applicable.

(i) If applicable, all executed service contracts or agreements.

(j) An agreement that the water supplier will operate the waterworks system in compliance with applicable state and federal laws.

(k) An agreement that the water supplier will not sell, lease, abandon, or otherwise dispose of the waterworks system without an effective assignment of obligations and the prior written approval of the department and the authority.

(l) An agreement that:

(i) For water suppliers that are municipalities, all accounts will be maintained in accordance with generally accepted accounting practices, generally accepted government auditing standards, and chapter 75 of title 31 of the United States Code, 31 U.S.C. 7501 to 7507, as required by the federal safe drinking water act.

(ii) For water suppliers that are not municipalities, all accounts will be maintained in accordance with generally accepted accounting practices and generally accepted auditing standards.

(m) An agreement that all water supplier contracts with contractors will require them to maintain project accounts in accordance with the requirements of this subsection and provide notice that any subcontractor may be subject to a financial audit as part of an overall project audit.

(n) An agreement that the water supplier will provide written authorizations to the department for the purpose of examining the physical plant and for examining, reviewing, or auditing the operational or financial records of the project, and that the water supplier will require similar authorizations from all contractors, consultants, or agents with which it negotiates an agreement.

(o) An agreement that all pertinent records shall be retained and available to the department for a minimum of 3 years after initiation of the operation and that if litigation, a claim, an appeal, or an audit is begun before the end of the 3-year period, records shall be retained and available until the 3 years have passed or until the action is completed and resolved, whichever is longer. As used in this subdivision, "initiation of the operation" means the date certain set by the water supplier and accepted by the department, on which use of the project begins for the purposes for which it was constructed.

(p) If the project is segmented, as provided in section 5406(3), a schedule for completion of the project and adequate assurance that the project will be completed with or without assistance from the fund or that the segmented project will be operational without completion of the entire project.

(q) An agreement that the project will proceed in a timely fashion if the application for assistance is approved.

(r) An application fee, if required by the department.

(2) A demonstration that a dedicated source of revenue will be available for operating and maintaining the

waterworks system and repaying the incurred debt.

(3) The department shall accept applications for assistance from water suppliers in the fundable range of the priority list and shall determine whether an application for assistance is complete.

(4) The state is not liable to a water supplier, or any other person performing services for the water supplier, for costs incurred in developing or submitting an application for assistance under this part.

**History:** Add. 1997, Act 26, Imd. Eff. June 17, 1997.

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